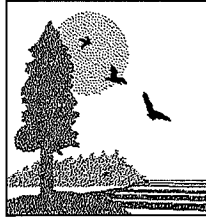


CALIFORNIA STATE LANDS COMMISSION

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June 11, 2012

File Ref: W9777.291

**NOTICE OF MODIFICATION TO TEXT OF PROPOSED AMENDMENTS TO
REGULATIONS FOR THE MANAGEMENT OF BIOFOULING FOR VESSELS
OPERATING IN CALIFORNIA WATERS**

Title 2, Division 3, Chapter 1, Article 4.8

The staff of the California State Lands Commission (Commission) is hereby providing notice of changes made to proposed amendments of regulations for the management of biofouling for vessels operating in California waters. The proposed amendments to the regulations were originally published in the California Regulatory Notice Register on September 16, 2011, and were subject to an extended public comment period of 66 days that ended on November 21, 2011. A public hearing was held on November 16, 2011, in Oakland, CA. Upon consideration of written and oral testimony received during the November 16, 2011, public hearing and during the initial 66-day public comment period, Commission staff revised the proposed amendments to the Article 4.8 regulations.

The revised proposed amendments to the Article 4.8 regulations were distributed and published on the Commission's website on December 30, 2011, to initiate a second extended public comment period of 30 days that ended on January 28, 2012. Because the second comment period closed on a Saturday, Commission staff continued to accept written comments until 5:00 pm on Monday, January 30, 2012. Commission staff also accepted oral comments during a public meeting of the Commission that took place on January 26, 2012, in Emeryville, CA. Upon consideration of written and oral testimony received during the January 26, 2012, public Commission meeting and during the second public comment period, Commission staff further revised the proposed amendments to the Article 4.8 regulations.

The revised proposed amendments to the Article 4.8 regulations were distributed and published on the Commission's website on March 1, 2012, to initiate a third public comment period of 15 days that ended on March 16, 2012. Upon consideration of written comments received during the third public comment period, Commission staff has further revised the proposed amendments to the Article 4.8 regulations to include:

- Addition of procedures for presumption of compliance for a vessel's wetted surface areas, excluding specific niche areas identified.

- Modification of performance standard and gross exceedance threshold language from fixed percentage cover values to "significantly in excess of" the proposed percentage cover values.
- Addition of language to indicate that Commission staff will continue to collect and assess data, and will reevaluate the Article 4.8 regulations at the end of two successive three-year periods.
- Relocating the gross exceedance definition to the definition section, for clarity purposes.
- Other minor changes to improve the clarity of the proposed amendments.

A copy of the full text of the draft amendments to the Article 4.8 regulations as originally proposed on September 16, 2011, the text of the initial modifications originally published on December 30, 2011, the text of the second round of modifications as originally published on March 1, 2012, and the text as currently modified is available on the Commission's website at:

http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Ballast_Water_Default.html

WRITTEN COMMENT PERIOD

The proposed changes are considered to be substantial and sufficiently related, warranting a 15-day public comment period. Therefore, Commission staff will accept written comments on the proposed changes for 15 days, starting on June 12, 2012, and ending at 5:00 pm June 26, 2012. Comments should be limited to the current modifications to the proposed amended regulations. These are indicated by *italicized double strikethrough with dotted underline* for new deletions, and *italicized dotted underline* for new language.

Please submit written comments to:

California State Lands Commission
Marine Facilities Division
200 Oceangate, Suite 900
Long Beach, CA 90802-4335
Attention: Ravindra Varma

Written comments may also be submitted by facsimile to (562) 499-6317 to the attention of Ravindra Varma, or by e-mail to ravi.varma@slc.ca.gov. All written comments submitted via e-mail must include "**Article 4.8 Comments**" in the subject line of the e-mail.

Sincerely,



Don Hermanson
Chief, Marine Facilities Division

Enclosure